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2 yosina.lissebeck@dinsmore.com

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3 **DINSMORE & SHOHL LLP**

4 655 West Broadway, Suite 800
5 San Diego, CA 92101

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7 Counsel to the Chapter 7 Trustee,
8 Richard A. Marshack

9 **UNITED STATES BANKRUPTCY COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

11 In re:

Case No. 8:24-bk-12527-SC

12 Kristina Lynn Smith,

Chapter 7

13 Debtor.

14 **SUPPLEMENTAL DECLARATION OF
15 RICHARD A. MARSHACK IN SUPPORT
16 OF REPLY TO MOTION TO APPROVE
17 SALE**

18 Hearing:

19 Date: January 15, 2026

20 Time: 9:00 a.m.

21 Place: Courtroom 5C

22 411 W Fourth St.

23 Santa Ana, CA 92701

24 I, RICHARD A. MARSHACK, declare as follows:

25 1. I am an individual over 18 years of age and competent to make this Declaration. I
26 have personal knowledge of the matters set forth in this Declaration, and if called upon to do so I
27 could and would competently testify to these facts. I am the Chapter 7 trustee ("Trustee") for the
28 bankruptcy estate ("Estate") of Kristina Lynn Smith ("Debtor").

29 2. The Sur-reply filed by the Neshanian Law Firm provides no substantive arguments
30 in opposition to the Motion to Approve the Sale of Property. However, it is not appropriate for just
31 a sampling of emails to be provided.

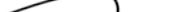
1 3. To ensure a complete record, I feel compelled to provide the Court with the following
2 January 6, 2026 recording of the 341(a)¹, which I certify is a true and correct copy of the official
3 recording: [https://www.dropbox.com/scl/fi/69pdykwvdt21kxxdaq8mw/26-01-06_0716-Kristina-
4 Smith.MP3?rlkey=j51hgiseexguznpt9rtd3gnaj&st=hxpl1j95&dl=0](https://www.dropbox.com/scl/fi/69pdykwvdt21kxxdaq8mw/26-01-06_0716-Kristina-Smith.MP3?rlkey=j51hgiseexguznpt9rtd3gnaj&st=hxpl1j95&dl=0):
5 As evident in the recording, I did not purposely mispronounce Mr. Neshanian's name, and I
6 apologized several times. Regardless, I think that Mr. Neshanian calling me a "nerdy white guy",
7 which I and others heard differently, was uncalled for. (Recording time stamp: 38:1-38)

8 4. I also attach hereto as Exhibit A, the email thread of January 5th -6th, between Ben
9 Heston, Richard Heston and Mr. Neshanian, which others including myself were copied on.

10 5. By reviewing the Exhibit 1 attached to the Sur-reply, it is evident that my counsel
11 and I made repeated attempts to discuss the initial Sale Stipulation with Mr. Neshanian, and tried
12 calling him several times (See, Sur-reply Exhibit 1, pg 16, 19 & 21); that there was never any
13 coercion and that Ms. Lissebeck did ask if she made the revisions requested, would Mr. Neshanian
14 then sign the stipulation, (See Sur-reply, Exhibit 1, pg. 12 and 26); and that Ms. Lissebeck and I
15 attempted to answer all his questions, including the value of the mortgage (See, Sur-Reply, Exhibit
16 1, pg. 26-27).

17 6. No party except for Neshanian Law objected to the Sale Motion; none of this has
18 anything to do with the substance of the Sale Motion, and I again ask for reason and civility to
19 prevail.

20 I declare under penalty of perjury that the foregoing is true and correct. Executed on
21 January 9, 2026. 


RICHARD A. MARSHACK

²⁸ ¹ I am aware of the Court's rule related to 341(a) transcripts, but I did not feel that the Estate's money should be spent to provide a certified copy of the transcript under these circumstances.

EXHIBIT A



Re: Joinder to Trustee's Motion for Order Authorizing the sale of Real Property

From Ben Heston <ben@nexusbk.com>

Date Tue 1/6/2026 12:37 PM

To Neshanian Law Firm <neshanianlawfirm@gmail.com>

Cc rheston <rheston@hestonlaw.com>; Richard Marshack <rmashack@marshackhays.com>; tina talbotfamilylaw.net <tina@talbotfamilylaw.net>; Lissebeck, Yosina <Yosina.Lissebeck@Dinsmore.com>

Great! Like I said, go ahead and file something. You do not need to preface it with more of these emails.

Benjamin Heston, Esq.
NEXUS BANKRUPTCY

On Tue, Jan 6, 2026, 12:08 PM Neshanian Law Firm <neshanianlawfirm@gmail.com> wrote:
Richard, I didn't know calling him your son was an ad hominem attack.

Ben, I'll spell it out for you in my objection. We'll let the court determine who the sophomoric neophyte is. My firm's lien is clearly your client's debt and as to the ascribing creditors including your client the sale was conditioned on only the terms of the stipulation such that your client cannot reserve rights beyond the stipulation as he contends without vitiating the consent of all the other ascribing creditors to the sale. I offered you an opportunity to clear the record.

Eric
The Neshanian Law Firm, Inc.
[5 Corporate Park, Ste. 250](http://www.neshanianlawfirm.com)
[Irvine, CA 92606](http://www.neshanianlawfirm.com)
(714) 973-2600 Office
(714) 973-2601 Fax

****EFFECTIVE MAY 1, 2024, WE HAVE RELOCATED TO THE ABOVE ADDRESS****

Important Notice to Email Recipients:

DO NOT read, copy, or disseminate this communication unless you are the intended addressee. This email communication contains confidential and/or privileged information intended only for the addressee. Anyone who receives this email by error should treat it as confidential and is asked to call (714) 973-2600. This email transmission may not be secure and may be illegally intercepted. Do not forward or disseminate this email to any third party. Unauthorized interception of this email is a violation of federal law. Any reliance on the information contained in this correspondence by someone who has not entered into a retainer agreement with The Neshanian Law Firm, Inc. is taken at the reader's risk. The attorneys of The Neshanian Law Firm, Inc. are licensed to practice law ONLY in California and do not intend to give advice to anyone on any legal matter not involving California law.

On Tue, Jan 6, 2026 at 8:48 AM Ben Heston <ben@nexusbk.com> wrote:
Eric,

My "silence" regarding your pointless and unhinged emails sent after work hours does not mean anything. Your little meltdown is pretty low on my list of priorities. I do not understand why you are so angry, why you are sending these emails, and why expect me to do something in response. Obviously I am not going to withdraw anything. If you've got a bee in your bonnet or need to blow off some steam, file something or bring it up in court. Your bizarre emails have accomplished nothing more than making you seem like a raving lunatic and a petulant child.

Please do not bother me like this again.

- Ben

--

Benjamin Heston, Esq.

Certified Consumer Bankruptcy Law Specialist

NEXUS BANKRUPTCY

[3090 Bristol Street #400, Costa Mesa, CA 92626](#)

[19700 Fairchild Road #280, Irvine, CA 92612](#)

Tel: 949.312.1377 // **Fax:** 949.288.2054

On Mon, Jan 5, 2026 at 7:33 PM Neshanian Law Firm <neshanianlawfirm@gmail.com> wrote:

Richard,

His silence can be accepted as an admission that he lacks candor as specified by me. You don't appreciate the evidence code. Carry on.

Eric

The Neshanian Law Firm, Inc.

[5 Corporate Park, Ste. 250](#)

[Irvine, CA 92606](#)

(714) 973-2600 Office

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On Mon, Jan 5, 2026 at 7:24 PM rheston <rheston@hestonlaw.com> wrote:

No. He's making you look bad. Or more accurately, you are doing that on your own.

Exhibit "A"

Page 5

When my dog won't heel in obedience school, I look bad. When a child who's a respected member of the bar exercises independent thought, I take pride.

I'll observe the hearing via Zoom. Further emails warranting a reply will be responded to during business hours.

Richard G. Heston, Esq.
Heston & Heston, Attorneys at Law
[19700 Fairchild Rd., Suite 280](http://19700FairchildRd.com)
[Irvine, CA 92612](http://IrvineCA92612.com)
[\(949\) 222-1041](tel:(949)222-1041)
rheston@hestonlaw.com

On Jan 5, 2026 at 7:06 PM, Neshanian Law Firm <neshanianlawfirm@gmail.com> wrote:

Regrettably Richard, he is making you look bad.

He may be a certified bankruptcy practitioner but he obviously does not know the difference between community debt and separate property debt obligations.

And, his client's Joinder completely contradicts his stipulation authorizing the sale of the property notwithstanding that his position re the characterization of the debt from which my lien arises fails legally and factually.

Eric
The Neshanian Law Firm, Inc.
[5 Corporate Park, Ste. 250](http://5CorporatePark.com)
[Irvine, CA 92606](http://IrvineCA92606.com)
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On Mon, Jan 5, 2026 at 6:14 PM <rheston@hestonlaw.com> wrote:

Mr. Neshanian,

Exhibit "A"

Page 6

I believe that since we all went to law school, we all understand that the practice of law involves the resolution of clashing ideas based on differing interpretations of law and, at times, disputed facts. That process presumes professionalism, civility, and courtesy. When counsel cannot agree, those disputes are resolved by the court, based on the parties' written submissions and argument, not by personal commentary directed at opposing counsel or copied on others not immediately party to the issues in dispute.

Mr. Neshanian, your email directed to my son, Benjamin Heston, and copied to me and others, raises serious concerns in that regard.

While the issues surrounding the characterization and enforceability of your judgment, particularly whether and to what extent it may reach asserted community property interests in a related bankruptcy proceeding, are legitimate legal questions, the upcoming hearing is on the Chapter 7 trustee's motion to sell the property free and clear of liens, which shall attach to the proceeds. The validity of liens and distribution of proceeds is a battle over the horizon for another day. Reasonable attorneys can and often do disagree on such matters. Those disagreements are appropriately resolved through briefing and argument before the court.

As you know, this matter will be presented to Judge Scott Clarkson, who maintains very high standards of professional conduct and has little tolerance for *ad hominem* attacks, coercive rhetoric, or threats directed at counsel. The suggestion that opposing counsel must retract a filing or face personal accusations does not advance the merits of the dispute and is unlikely to be appreciated or rewarded by the court.

Benjamin Heston is a certified bankruptcy specialist who represents his clients independently, vigorously, and professionally. His advocacy on behalf of his client reflects a good-faith legal position that can be tested, and either accepted or rejected, by the court in due course. My relationship to him is irrelevant to that process and should not have been raised.

I trust that going forward, communications in this matter will remain focused on the law and the facts, and that the issues will be presented to Judge Clarkson in the manner befitting the court and the profession.



Richard G. Heston, Esq.

Heston & Heston, Attorneys at Law

Certified Consumer Bankruptcy Law Specialist (1995-2024)

Certified Family Law Specialist (1992-2017)

Phone: [949-222-1041](tel:949-222-1041)

Email : rheston@hestonlaw.com

19700 Fairchild Rd., Ste. 280

Irvine, CA 92612-2528

www.hestonlaw.com

Dictated with Dragon Naturally Speaking™ software, due to a hand disability. As a result this email may contain phonetic misspellings and other errors.

From: Neshanian Law Firm <neshanianlawfirm@gmail.com>
Sent: Monday, January 5, 2026 5:10 PM
To: ben@nexusbk.com
Cc: Richard Marshack <rmarshack@marshackhays.com>; tina talbotfamilylaw.net <tina@talbotfamilylaw.net>; Richard Heston <rheston@hestonlaw.com>
Subject: Joinder to Trustee's Motion for Order Authorizing the sale of Real Property

Dear Mr. Heston,

You have not been candid with the court regarding the status of my judgment lien against your client Jeff Gomez.

This is not a community debt.

The judgment lien arises from your client's failure to pay attorney fees and costs incurred by him in defending himself in the dissolution action commenced by Ms. Smith against him

These are post-separation necessities of life which are his separate property debt.

Either you retract your joinder making these wild claims not supported by fact or law, or I will make it a point to enlighten the court regarding your lack of factual or legal candor in this respect.

Seeing as you are Richard's son, I would expect more from you but then I see who you are representing and I can only shake my head. You should be ashamed of yourself.

Eric

The Neshanian Law Firm, Inc.

<5 Corporate Park, Ste. 250>

<Irvine, CA 92606>

(714) 973-2601 Fax

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--

**Benjamin Heston, Esq.
NEXUS BANKRUPTCY**

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 655 W. Broadway, Suite 800, San Diego, California 92101

A true and correct copy of the foregoing document: **SUPPLEMENTAL DECLARATION OF RICHARD A. MARSHACK IN SUPPORT OF REPLY TO MOTION TO APPROVE SALE**

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On January 9, 2026, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On January 9, 2026, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on January 9, 2026, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

JUDGE'S COURTESY COPY – VIA FEDEX

Honorable Scott C. Clarkson
United States Bankruptcy Court
Central District of California, Santa Ana Division
411 W. Fourth St., Ste 5130/Ctrm 5C
Santa Ana, CA 92701-4593

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 9, 2026
Date

Caron Burke
Printed Name

/s/ Caron Burke
Signature

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

David Coats on behalf of Creditor Wells Fargo Bank, N.A.
dacoats@raslg.com

Benjamin Heston on behalf of Creditor Jeffrey Adams Gomez
bhestonecf@gmail.com, benheston@recap.email,NexusBankruptcy@jubileebk.net

Richard G. Heston on behalf of Creditor Richard G Heston
rheston@hestonlaw.com,
yflores@hestonlaw.com,docs@hestonlaw.com,HestonRR41032@notify.bestcase.com,hestonlaw@reca
p.email

Yosina M Lissebeck on behalf of Trustee Richard A Marshack (TR)
Yosina.Lissebeck@Dinsmore.com, caron.burke@dinsmore.com;ayrton.celentino@dinsmore.com

Richard A Marshack (TR)
pkraus@marshackhays.com, ecf.alert+Marshack@titlexi.com

Eric Marcus Neshanian on behalf of Interested Party Courtesy NEF
neshanianlawfirm@gmail.com

Jacob Newsum-Bothamley on behalf of Trustee Richard A Marshack (TR)
jacob.bothamley@dinsmore.com, bonnie.connolly@dinsmore.com

Matthew J Stockl on behalf of Trustee Richard A Marshack (TR)
mstockl@otterbourg.com, katrice.ortiz@dinsmore.com

United States Trustee (SA)
ustpregion16.sa.ecf@usdoj.gov

Julie J Villalobos on behalf of Debtor Kristina Lynn Smith
julie@oaktreelaw.com,
oakecfmail@gmail.com;villalobosjr51108@notify.bestcase.com;gus@oaktreelaw.com

Jennifer C Wong on behalf of Interested Party Courtesy NEF
bknotice@mccarthyholthus.com, jwong@ecf.courtdrive.com